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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,097	04/25/2006	Raymond Lillback	16-170 PCT	2318
26294 7590 06/23/2010 TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVELAND, OH 44114				
EXAMINER				
FOX, JOHN C				
ART UNIT		PAPER NUMBER		
3753				
MAIL DATE		DELIVERY MODE		
06/23/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,097

Applicant(s)

LILLBACK, RAYMOND

Examiner

John Fox

Art Unit

3753

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 1-5, 7, 8, 11-14 and 18-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6, 9, 10 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 18, 2010 has been entered.

Claims 1-5, 7-8, 11-14, and 18-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on April 20, 2009.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 6, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gold, of record.

Gold shows a valve with main ports 11, 12 and other ports 13, 14 and a valve spool with base 28, disc-like member 29 with openings 32, and a diametral wall 30. In the normal position, shown in dash lines in Figure 1, a flow path will exist from the spool through openings 32 to a chamber region above 29, returning back through openings 32 to the spool and to the other port 14 through an opening on the cylindrical wall of the valve chamber. Each of the ports of Gold include a transfer or intermediate chamber. The chamber region is located between member 29 and cover 39.

Applicant's arguments have been fully considered but they are not persuasive. Applicant argues that the openings 32 are for pressure equalizing the spool and there will be no flow from the chamber region to a transfer chamber. The Examiner disagrees with Applicant's conclusion. If fluid is present above member 29 then it must have flowed there. The only source of fluid is that applied to the ports. There is an unobstructed fluid path from a transfer chamber through the spool and through an opening 32 to the chamber region. This fluid path corresponds identically to what is disclosed in the instant application, and fairly responds to the language of claim 6.

Applicant argues that the pressure chamber above member 29 is not a transfer chamber. The Examiner agrees. The pressure chamber of Gold corresponds to the chamber region. The transfer chambers of Gold are the squarish chambers between the lines 15-18 and the spool.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gold in view of Kirkwood et al.

Gold teaches the claimed valve except for a seal. Kirkwood et al show a similar four port valve with a seal. It would have been obvious at the time the invention was made for one of ordinary skill in the art to have used such a seal in the valve of Gold to similarly seal against the chamber wall.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gold in view of Voith.

Gold teaches the claimed valve except for a lower bearing. Voith shows a similar valve with a lower bearing, as recited. It would have been obvious at the time the

invention was made for one of ordinary skill in the art to have used such a bearing as taught by Voith in the valve of Gold to similarly provide for rotational stability.

Claims 6 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergman.

Bergman shows a valve with main ports 1, 2 and other ports 3,4, and a valve spool with base 17, disc-like member 16 with openings opposite valves 28, 29, a diametral wall 15 and a radial wall 14 which is read as extending from the wall 15. As with Gold, a flow path exists as recited through the openings in member 16 to an other port.

Applicant's arguments have been fully considered but they are not persuasive. Applicant argues that the Examiner has read the hollow members 30 as wall openings. However, the Office Action reads "Accordingly, the cylindrical shape of the seals 30 are properly read as a wall with openings therethrough." It is believed that the Examiner's position was sufficiently clear that it could be understood, since the openings at issue allow fluid flow between the ports and the spool, which is clearly present in Bergman. Accordingly, the rejection will be maintained.

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued

examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Fox whose telephone number is 571-272-4912. The examiner can normally be reached on Monday-Saturday from 10am-6pm (Hoteling Program).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Fox/
Primary Examiner
Art Unit 3753